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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,161	11/20/2003	Claude Cajolet	A1998037(2)C	8989
26643	7590	11/16/2006	EXAMINER	
PETER J. GORDON, PATENT COUNSEL			LUU, MATTHEW	
AVID TECHNOLOGY, INC.				
ONE PARK WEST			ART UNIT	PAPER NUMBER
TEWKSBURY, MA 01876			3663	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/718,161	CAJOLET ET AL.	
	Examiner	Art Unit	
	LUU MATTHEW	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 July 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

Fig. 2, the boxes 14, 20, 24, 28a-28c, 30 and 32 must be labeled.

Fig. 3, the boxes 40, 44, 48, 52, 60, 64, 66 and 72 must be labeled.

Fig. 4, the boxes 24, 52, 66, 68, 72 and 80 must be labeled.

Fig. 5, the boxes 88, 92, 96, 100, 104, 108 and 112 must be labeled.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 1, line 1, "a computer program product" must be recorded on some computer-readable medium. In other words, when functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since user of technology permits the function of the descriptive material to be realized.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed compute programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized.

Dependent claims 2-7 are also considered rejected for incorporating the defects from their respective parent claim 1 by dependency.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-7 are drawn to the "*Product-by-Process Claims*".

"The claim does not provide competitors with an accurate determination of the METES AND BOUNDS of protection involved so that an evaluation of the possibility of infringement may be ascertained with a reasonable degree of certainty." (Lyell, 17 USPQ 2d 1548, Bd. Pat. App. & Inter. 1990).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rayner (5,388,197) in view of Girard (5,594,856).

*Claims 1-7 are drawn to the "Product-by-Process Claims". A product-by-process claim is a **product** claim, which is one in which a product is defined at least in part in terms of the method or process by which it is made. That is, the product itself does not depend on the process of making it.*

Regarding claims 1-7, Rayner discloses (Figs. 1-3) a computer program product, comprising:

a computer readable medium (storage means 50 and local memory 60);
computer program instructions stored on the computer readable medium
(Fig. 2, time code, control video & audio information), when processed by a
computer, instruct the computer to perform a method for implementing a
graphical user interface for editing video sequence (Fig. 3 shows a video source
interface 58, graphic interface generator 57 and the timeline 10,11) (column 2,
lines 25-41; and column 4, lines 6-11).

Rayner fails to disclose the graphic user interface (GUI) for editing a three-dimensional (3D) animation.

However, Girard discloses (Figs. 1-3) a computer system for editing a 3D animation.

Therefore, it would have been obvious to a person of ordinary skill in the art to use the computer user interface for editing a 3D animation into the computer program product of Rayner to provide a simple, efficient and powerful user interface that allows the user to specify complex animation of multi-legged characters by placing footprints on a surface.

Claim Rejections - 35 USC § 103

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ibrahim et al (US 2004/0117730) in view of Girard (5,594,856).

Regarding claims 1-7, Ibrahim discloses (Figs. 1-5) a computer program product, comprising:

a computer readable medium;
computer program instructions stored on the computer readable medium, when processed by a computer, instruct the computer to perform a method for implementing a graphical user interface for editing video sequence (Sections 19-23 and 36).

Ibrahim fails to disclose the graphic user interface (GUI) for editing a three-dimensional (3D) animation.

However, Girard discloses (Figs. 1-3) a computer system for editing a 3D animation.

Therefore, it would have been obvious to a person of ordinary skill in the art to use the computer user interface for editing a 3D animation into the computer program product of Ibrahim to provide a simple, efficient and powerful user interface that allows the user to specify complex animation of multi-legged characters by placing footprints on a surface.

Once the examiner provides a rationale, which supports the conclusion that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to Applicant to come forward with evidence between the claimed product and the prior art product. In re Marosi, 218 USPQ 289, 292 (Fed. Cir. 1983).

A statement or argument by the attorney is not factual evidence.
MPEP 716.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LUU MATTHEW whose telephone number is (571) 272-7663. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JACK KEITH can be reached on (571) 272-7663. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M. Luu



MATTHEW LUU
PRIMARY EXAMINER